

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

STATE OF OHIO, ex rel.,	:	
JIM PETRO,	:	CASE NO. A0402936
ATTORNEY GENERAL OF OHIO,	:	
	:	
Plaintiff,	:	
	:	JUDGE SCHWEIKERT
v.	:	
	:	
CONTAINERPORT GROUP, INC.,	:	CONSENT ORDER AND
	:	FINAL JUDGMENT ENTRY
Defendant.	:	

Plaintiff State of Ohio, by and through the Attorney General, Jim Petro, at the written request of the Director of the Ohio Environmental Protection Agency, having filed a Complaint seeking injunctive relief and civil penalties from ContainerPort Group, Inc. for violations of R.C. Chapter 3704 and the rules promulgated thereunder, and the parties having consented to the entry of this Order,

NOW, THEREFORE, without trial, admission, or determination of any liability or issue of fact or law, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. DEFINITIONS

1. As used in this Order, the following terms are defined as follows:
 - a. "Director" means the Director of the Ohio Environmental Protection Agency.
 - b. "Cleveland Facility" means the Defendant's terminal for intermodal cargo shipping container cars located on the south side of East Ninth Street and Broadway Avenue, Cleveland, Cuyahoga County, Ohio.
 - c. "Evendale Facility" means the Defendant's terminal for intermodal cargo shipping container cars located at 3155 East Sharon Road, in Evendale, Hamilton County, Ohio.

d. "Ohio EPA" means the Ohio Environmental Protection Agency.

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim for which relief can be granted pursuant to R.C. Chapter 3704. Venue is proper in this Court.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action. In accordance with Civ.R. 65(D), Section V, below, shall apply to and be binding upon the parties to this action, and their officers, agents, servants, employees, attorneys, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Consent Order whether by personal service or otherwise.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. Plaintiff alleges in its Complaint that Defendant has operated both the Cleveland Facility and the Evendale Facility in such a manner as to result in violations of the air pollution control laws and regulations of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of the Defendant to the Plaintiff for the claims alleged in the Plaintiff's Complaint.

5. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State of Ohio from bringing any action against the Defendant for any violations which occur after the entry of this Order. Nothing in this Consent Order shall

be construed to relieve the Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

V. INJUNCTION

6. Defendant agrees and is hereby enjoined and ordered to comply with R.C. 3704 and the regulations adopted thereunder, including all terms and conditions of any existing and future Permit to Install, Permit to Operate, and Title V Permit and any subsequent renewals or modifications thereafter including any permit modification issued pursuant to paragraph 7 of this Order. Specifically, Defendant agrees to refrain and is hereby enjoined from “installing” or “modifying” any “air contaminant source,” as those terms are defined by Ohio Adm. Code 3745-31-01(LL), (VV) and (D), respectively, at the Cleveland Facility and Evendale Facility without first applying for and obtaining a Permit to Install from the Director in accordance with Ohio Adm. Code. 3745-31-02, as applicable. In addition, Defendant agrees and is hereby enjoined from operating any air contaminant source at the Cleveland Facility and Evendale Facility without first complying with the requirements of Ohio Adm. Code Chapters 3745-31, 3745-35 and 3745-77 and Ohio Adm. Code 3745-21-07(G)(2), as applicable.

7. Defendant may, at any time following the filing date of this Consent Order, submit, in accordance with Ohio Adm. Code 3745-31-02(A), a complete and accurate application for modification of Permit to Install Number 14-05216 issued for the paved and unpaved roadways and parking areas (emissions unit F001) at the Evendale Facility.

8. Defendant is further enjoined and ordered to provide actual notice of this Consent Order to its agents, representatives, officials, employees, assigns and successors in interest, or any persons who act in concert or participation with any of these entities.

VI. CIVIL PENALTY

9. Pursuant to R. C. 3704.06, Defendant shall pay to the State of Ohio a civil penalty of Twenty Thousand dollars (\$20,000.00). The civil penalty shall be paid by Defendant within thirty (30) days of the filing date of this Consent Order, by delivering a company check for \$20,000 made payable to the order of “Treasurer, State of Ohio,” at the address stated in paragraph 10 of this Consent Order.

10. All company checks referenced in paragraph 9 shall be delivered to:

Lyndia Jennings, Administrative Assistant (or her successor)
Office of the Attorney General of Ohio
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428

VII. STIPULATED PENALTIES

11. In the event that Defendant fails to comply with any of the requirements imposed by paragraphs 6 and 9 of this Consent Order, the Defendant shall, immediately and automatically, be liable for and shall pay a stipulated penalty of One Thousand Dollars (\$1,000.00) per day per violation.

12. In the event Defendant fails to meet any of the requirements of paragraphs 6 and 9 of this Consent Order, the Defendant shall immediately and automatically be liable for payment of stipulated penalties imposed by this Order without prior demand by the State of Ohio. Payment of all stipulated penalties shall be paid by Defendant by its delivering to Plaintiff a company check(s) in the appropriate amount(s), payable to the

order of "Treasurer, State of Ohio," immediately upon the occurrence of the violation giving rise to the penalty and delivered to the address in paragraph 10.

13. The imposition, payment and collection of stipulated penalties pursuant to paragraph 11 of this Consent Order shall not prevent the State from pursuing additional remedies, civil, criminal or administrative, for violations of applicable laws.

VIII. RETENTION OF JURISDICTION

14. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

IX. COURT COSTS

15. The Defendant is hereby ordered to pay all court costs of this action.

X. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

16. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XI. AUTHORITY TO ENTER INTO THE CONSENT ORDER

17. Each signatory for the Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof.

IT IS SO ORDERED.

DATE

JUDGE, COURT OF COMMON PLEAS,
HAMILTON COUNTY

APPROVED:

CONTAINERPORT GROUP, INC.

JIM PETRO
ATTORNEY GENERAL OF OHIO

Authorized Representative of
Defendant ContainerPort Group, Inc.

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